

## JOURNAL OF THE HOUSE.

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Thursday, December 16, 2004.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, Your guidance and direction empowers us to use our intellect and various talents thoughtfully in addressing our daily personal and legislative responsibilities and opportunities. Inspire us to recognize and to respond to these occasions wisely. The joyful spirit of the season of giving, receiving and goodwill helps us to keep our daily existence in perspective. The season also reminds us of our diversity in religious customs, beliefs and practices, which we respect as citizens. We pray that our religious faith and beliefs will influence our daily priorities and decisions. Amen.

Prayer.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of  
allegiance.

### *Resolutions.*

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Jones of North Reading and other members of the House) congratulating Andrew Card on his continuing service as White House Chief of Staff;

Andrew  
Card.

Resolutions (filed by Representatives Coppola of Foxborough, Poirier of North Attleborough and Kafka of Stoughton) congratulating Michael Bibby on receiving the Eagle Award of the Boy Scouts of America; and

Michael  
Bibby.

Resolutions (filed by Mr. Walsh of Lynn and other members of the House) urging the Massachusetts Congressional Delegation to create a Postage-Free Mail Program for items sent to Armed Forces Distribution Centers;

Postage-Free  
Mail  
Program.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Fallon of Malden, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

### *Petition.*

Mr. Petersen of Marblehead presented a petition (subject to Joint Rule 12) of Douglas W. Petersen for legislation to authorize the Department of Social Services to establish a sick leave bank for Pamela Dempsey, an employee of said department; and the same was referred, under Rule 24, to the committee on Rules.

Pamela  
Dempsey,  
sick leave  
bank.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Quinn of Dartmouth, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

*Papers from the Senate.*

Municipal  
housing  
trust funds.

The House Bill establishing municipal affordable housing trust funds (House, No. 4709) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2506.

Under suspension of Rule 35, on motion of Mr. Honan of Boston, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Insurance  
fraud.

The House Bill further preventing insurance fraud in the Commonwealth (House, No. 4713) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2420.

Under suspension of Rule 35, on motion of Mr. Mariano of Quincy, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith.

The same member and Mr. O'Flaherty of Chelsea then moved that the House concur with the Senate in its amendment with further amendments striking out section 3 (inserted by amendment by the Senate) and inserting in place thereof the following section:

"SECTION 3. Section 23P½ of said chapter 112, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:—

A physical therapist or physical therapist assistant whose license, certificate, registration or authority relating to the practice is suspended for professional misconduct with regard to insurance claims for more than one year shall not own, operate, practice in, or be employed by any chiropractic or physical therapy office, clinic, or other place designated to the practice of chiropractic or physical therapy until the license is re-installed by the board.

A physical therapist or physical therapist assistant whose license, certificate, registration or authority relating to the practice is suspended for any second offense with regard to insurance claims shall have their licenses permanently revoked.

A physical therapist or physical therapist assistant whose license, certificate, registration or authority relating to the practice is revoked with regard to insurance claims shall not own, operate, practice in, or be employed by any chiropractic or physical therapy office, clinic, or other place designated to the practice of chiropractic or physical therapy." by striking out section 6 (inserted by amendment by the Senate) and inserting in place thereof the following section:—

“SECTION 6. Section 95 of said chapter 112, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:—

A chiropractor whose license, certificate, registration, or authority relating to the practice is suspended for professional misconduct with regard to insurance claims for more than one year shall not own, operate, practice in, or be employed by any chiropractic or physical therapy office, clinic, or other place designated to the practice of chiropractic medicine or physical therapy until the license is re-instated by the board.

A chiropractor whose license, certificate, registration, or authority relating to the practice is suspended for any second offense with regard to insurance claims shall have their license permanently revoked.

A chiropractor whose license, certificate, registration, or authority relating to the practice is revoked with regard to insurance claims shall not own, operate, practice in, or be employed by any chiropractic or physical therapy office, clinic, or other place designated to the practice of chiropractic or physical therapy.”; in section 7, in lines 15 to 32, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:—

“(b) At least annually, the medical licensing boards who receive funding pursuant to paragraph (3) of subsection (d) shall review the data made available to them by the Automobile Insurers Bureau of Massachusetts for indication of overutilization of practice or fraud involving automobile insurance claims by individual practitioners or by provider groups. Where overutilization of practice or fraud involving automobile insurance claims by 1 or more licensees is suspected, the board shall conduct an investigation. If the investigation results in evidence that a pattern of fraud, overutilization of practice, or professional misconduct exists, the medical licensing boards shall initiate professional disciplinary proceedings to determine whether that practitioner’s or provider group’s license should be suspended, revoked, or be subjected to some other appropriate penalty.”; in said section, in line 61 and also in line 69, by striking out the words “over-treatment” and inserting in place thereof, in each instance, the words “overutilization of practice”; and by adding at the end thereof the following section:—

“SECTION 9. Section 23B, of chapter 112 of the Massachusetts General Laws, as appearing in the 2002 edition, is hereby amended by striking out the paragraph contained in lines 17 through 26, inclusive, and inserting in place thereof the following paragraph:—

Licenses shall expire every two years on the birth anniversary of the licensee. Licensees shall pay to the board a renewal fee determined by the secretary of administration and finance. The board may require specific continuing education as a condition of license renewal. The board may provide for the late renewal of a license that has lapsed and may require the payment of a late fee, an examination, continuing education, and supervised experience prior to issuing said renewed license. For purposes of implementing the transition to birthday renewals, for licenses renewing on or about January 2006, the board may issue licenses that expire in less than two years.”.

The further amendments were adopted. The House then concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendments.

Needham,  
construction  
exemption.

The House Bill exempting a certain project in the town of Needham from the provisions of Chapter 193 of the Acts of 2004 (House, No. 5150) came from the Senate passed to be engrossed, in concurrence, with amendments striking out section 1 and inserting in place thereof the following section:—

“SECTION 1. Until December 31, 2004, sections 44A½, 44D½ and 44D¾ of chapter 149 of the General Laws shall not apply to the project for renovations and construction of additions to Needham high school, as authorized by the town of Needham at its 2003 annual town meeting. The project shall comply with these sections after December 31, 2004, and shall also comply with all other laws.”; and adding at the end thereof the following section:—

“SECTION 3. Notwithstanding any general or special law to the contrary, any noncompliance with any provision of chapter 149 of the General Laws by the project for renovations and construction of additions in the town of Needham, as authorized by the town of Needham at its 2003 annual town meeting and which has received a commitment for reimbursement at a reimbursement rate of 50 per cent of the costs of the project from the Massachusetts School Building Authority pursuant to chapter 70B of the General Laws shall not result in any change in the reimbursement for the project previously approved by the Authority.”.

Under suspension of Rule 35, on motion of Ms. Rogeness of Longmeadow, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

Watertown,  
retirement  
benefits.

A Bill authorizing the city of Watertown to make certain payments (printed as House, No. 3866) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

#### *Reports of Committees.*

Southbridge,  
finances.

A report of the committee on Local Affairs and Regional Government, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2512) of Richard T. Moore and Mark J. Carron (with the approval of the town council) for legislation relative to the financial conditions in the town of Southbridge, and recommending that the same be referred to the Senate committee on Ways and Means,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence, inasmuch as relates to the discharge of the committee.

Revere,  
land.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the conveyance of a certain parcel of land in the city of Revere (Senate, No. 2514, amended) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the Rule 7A, on motion of Mr. Mariano of Quincy, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was a read a third time; and it was passed to be engrossed, in concurrence.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill dedicating certain lands in the town of Bridgewater under the care, custody and control of the department of correction for conservation, agricultural, open space and passive recreational purposes (House, No. 616) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Bridgewater,  
land.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mrs. Paulsen of Belmont, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill authorizing the city of Pittsfield to prohibit heavy commercial vehicles from Merriam Street (House, No. 5118) [Local Approval Received] be scheduled for consideration by the House. Placed in the Orders of the Day for the next sitting for a second reading.

Pittsfield,  
Merriam  
Street.

Under suspension of Rule 7A, on motion of Ms. Blumer of Framingham, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill authorizing a certain question to be placed on the ballot in the town of Lancaster (printed in House, No. 5133) be scheduled for consideration by the House. Placed in the Orders of the Day for the next sitting for a second reading.

Lancaster,  
Claire B.  
McNamara.

Under suspension of Rule 7A, on motion of Mr. Timilty of Milton, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Casey of Winchester, for the committee on Taxation, on a message from His Excellency the Governor, a Bill to decouple from federal production activity deduction. (printed in House, No. 5156). Read; and referred, under Rule 33, to the committee on Ways and Means.

Income  
tax  
deduction.

#### *Engrossed Bills.*

The engrossed Bill relative to the terms of certain bonds to be issued by the Commonwealth (see House bill printed in House, No. 5108) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was

Bill  
enacted.

passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bills  
enacted.

Engrossed bills

Establishing an economic development fund in the town of Plymouth (see Senate, No. 2390) (which originated in the Senate); and

Relative to creditable service for ambulance paramedics in the town of Billerica (see House, No. 4466, amended) (which originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

*Emergency Measures.*

Revere,  
land.

The engrossed Bill authorizing the conveyance of a certain parcel of land in the city of Revere (see Senate, No. 2514, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 11 to 0. Sent to the Senate for concurrence.

Bill  
enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Boards,  
duties and  
powers.

The engrossed Bill relative to the reporting of abuse of elders (see House, No. 1116), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 7 to 0. Sent to the Senate for concurrence.

Bill  
enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Orders of the Day.*

Elderly,  
water  
charges.

Mr. Mariano of Quincy being in the Chair,—

The engrossed Bill providing for an exemption for water charges of certain elderly persons (see House, No. 3001, amended), which had been returned by Her Honor the Lieutenant-Governor, Acting Governor with recommendation of amendment (for message, see House, 5109), was considered.

The committee on Bills in the Third Reading then reported recommending that the amendment be considered in the following form:

In line 4 (as printed) by inserting after the word “section” the words “by vote at a regular municipal election”.

The report was accepted.

The amendment recommended by the Governor then was rejected.

Mr. Donato of Medford then moved that the bill be amended, in lines 3 and 4, by striking out the words “In any city, town or district which accepts this section” and inserting in place thereof the following: “Notwithstanding section 4 of chapter 4 to the contrary, in any city, town or district which accepts this section by a vote at a regular municipal election”.

The amendment was adopted. Sent to the Senate for concurrence.

Mr. Donato of Medford being in the Chair,—

The engrossed Bill relative to retirement rights for school committee appointees (see House, No. 3960), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see House, 5109), was rejected in the following form (as approved by the committee on Bills in the Third Reading):

School  
committee  
appointees.

By adding at the end thereof the following section:

“SECTION 2. This act shall take effect upon an appropriation by the commonwealth for deposit into the Pension Reserves Investment Trust of funds equal to the amount by which the actuary of the Public Employee Retirement Administration Commission projects that this act will increase the commonwealth’s pension liability.”.

Sent to the Senate for its action.

The Senate Bill relative to the state retirement system (Senate, No. 2458), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Retirement  
system.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Larkin of Pittsfield moved that it be amended in section 1, in line 3, in section 2, in line 3, and in section 4, in line 5, by striking out the date: “July 1, 2004” and inserting in place thereof, in each instance, the date: “July 1, 2005”.

The amendments were adopted; and the bill (Senate, No. 2458, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments.

The Senate Bill relative to the by-laws of the town of Plymouth (Senate, No. 2481), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Third  
reading  
bill.

House bills

Ceding concurrent jurisdiction to the United States over certain property located at the former Devens Army Base (House, No. 1141);

Third  
reading  
bills.

Relative to the issuance of pension funding bonds by the city of Brockton (House, No. 3855);

Relative to the appointment of certified harbormasters in the Commonwealth (House, No. 4588); and

Relative to the Unified Session Clerk in Suffolk County (House, No. 5130) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

*Recess.*

Recess.

At a quarter after twelve o'clock noon, on motion of Mr. Timilty of Milton (Mr. Donato of Medford being in the Chair), the House recessed until a quarter after one o'clock P.M.; and at that time the House was called to order with Mr. Donato in the Chair.

*Engrossed Bill.*

Bill  
enacted.

Mrs. Harkins of Needham being in the Chair,—

The engrossed Bill exempting a certain project in the town of Needham from the provisions of Chapter 193 of the Acts of 2004 (see House bill printed in House, No. 5150, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the acting Speaker and sent to the Senate.

*Order.*

Next  
sitting.

On motion of Mr. DiMasi of Boston,—

*Ordered*, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

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At a quarter before two o'clock P.M., on motion of Ms. Rogeness of Longmeadow (Mrs. Harkins of Needham being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.